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August 7, 2001

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AUG - 7 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Magalie R. Salas, Esq.
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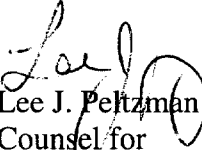
Re: Amendment of Section 73.202(b)
Table of Allotments
FM Broadcast Stations
(Mason and Junction, Texas)

Dear Sir/Madame:

Transmitted herewith, on behalf of BK Radio, permittee of a station presently authorized to operate on Channel 239C2 at Mason, Texas, is an original and four (4) copies of its Petition for Rule Making.

Please contact the undersigned in the event the Commission has any questions with respect to this rule making petition.

Sincerely,


Lee J. Peltzman
Counsel for
BK RADIO

Enclosure

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Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

AUG - 7 2001

**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**

In the Matter of

Amendment of Section 73.202(b))	MM Docket No.
Table of Allotments)	RM-
FM Broadcast Stations)	
(Mason and Junction, Texas))	

To: Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

PETITION FOR RULE MAKING

BK Radio ("Petitioner"), permittee of a station authorized to operate on Channel 239C2 at Mason, Texas, by its attorney and pursuant to Section 1.420 of the Commission's rules, hereby requests that the Commission amend Section 73.202(b) of its rules to reallocate Channel 239C2, Mason, Texas to Channel 239C2, Junction, Texas, and modify the station authorization accordingly. In support thereof, Petitioner shows the following:

Junction, Texas, is a community with a 1990 U.S. Census population of 2,654 persons. It is located in Kimble County. Junction is home to two stations, KOOK(FM) (Channel 228C2) and KMBL(AM). Thus, Channel 239C2 would constitute Junction's third local service and a second competitive service.

By comparison, with a population of only 2,041 persons, Mason has been allotted five FM channels (224A, 239C2, 273C2, 281C2 and 289C2) and two more have been proposed (249C3 and 269C3). Consequently, the proposed reallocation of Channel 239C2 from Mason to Junction will not adversely affect Mason, much less deprive it of its sole existing service.

The proposed reallocation also complies with the Commission's rules and will serve the Commission's allotment priorities and the public interest. In *Modification of FM and TV Authorizations to Specify a New Community of License*, 4 FCC Rcd 4870, 4874 (1989), rec. granted in part, 5 FCC Rcd 7094 (1990) (hereinafter "Community of License"), the Commission stated that, in order to have a successful reallocation, the proposed channel must be mutually exclusive with the existing channel and the new community must be preferred over the existing community under the Commission's allotment priorities. As indicated in the attached Technical Statement, the proposed allotment of Channel 239C2 at Mason is mutually exclusive with the current authorization of Channel 239C2 at Junction. Further, the new community, Junction, will obtain a third local service and a second competitive service and is, therefore, preferred over Mason, a community with fewer residents, which will retain numerous existing transmission services. Under the Commission's allotment criteria, a third local service to Junction is to be preferred over a fifth local service to the smaller community of Mason. See *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88 (1982). Significantly, also, the reallocation here will not remove service from a rural area to an urban area. Junction is not located within any urbanized area and the Station will not provide a 70 dBu signal over 50% of any urbanized area. It is not a suburb of any larger community but is, rather, an independent community. Moreover, BK does not propose any change in its authorized coordinates.

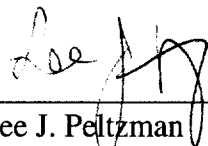
In addition, it should be noted that the Channel 239C2 authorization at Mason, has not yet been licensed to operate; thus, this reallocation request will not cause the removal of an "existing service" which the public has come to rely upon. See *Douglas, Tifton and Unionville, Georgia*, 10 FCC Rcd 7706 (1995); *Sanibel and San Carlos Park, Florida*, 10 FCC Rcd 7215

(1995); *Midway, Panacea and Quincy, Florida*, 10 FCC Rcd 6112 (1995); *Pawley's Island and Atlantic Beach, South Carolina*, 8 FCC Rcd 8657 (1993).

Petitioner hereby states that, should the Commission grant the instant proposal to reallocate Channel 229C2 at Mason, Texas to Junction, Texas, and modify its station permit accordingly, Petitioner will file an application for the new facilities and will promptly construct its station after grant.

WHEREFORE, BK Radio respectfully requests that the Commission amend its Table of Allotments to reallocate Channel 239C2 at Mason, Texas to Junction, Texas.

Respectfully submitted,

By: 

Lee J. Peltzman
Its Attorney

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August 7, 2001

Petition for Rule Making
BK Radio
Proposed Re-Allocation of Channel 239 C2 to Junction , Texas

Technical Statement

This statement and the attached exhibits were prepared on behalf of BK Radio ("BK"). BK herein requests an amendment to Section 73.202 of the Commissions rules by re-allotting Channel 239 C2, from Mason, Texas to Junction, Texas. The allocation of Channel 239 C2 to Junction, Texas will provide the community with its third local aural service.

Background

Junction, Texas is listed in the 1990 U.S. Census as a "city" with a population of 2654 people. Junction is served by FM station KOOK (Channel 228 C2) as well as AM station KMBL (1450 kHz.). Junction's status as a city worthy of broadcast service is well established. Mason, Texas, is listed in the 1990 U.S. Census as a "city" with a population of 2041 people. Mason has been allocated five (5) FM channels (224 A, 239 C2, 273 C2, 281 C2, and 289 C2). In addition, a proposal has been made to add a channel 249 C3, and 269 C3 at Mason (MM Docket No. 01-133).

Request

Channel 239 C2 can be allotted to Junction, Texas at reference coordinates North Latitude 30 33' 53" and West Longitude 99 27' 13". Exhibit #1 is a Section 73.207 spacing study, which shows that Channel 239 C2 meets the Commission's minimum distance separation requirements to all licensed, applied for, or proposed facilities, as well as foreign allocations. From these reference coordinates, Channel 239 C2 will provide 70-dBu signal to the entire city of Junction as shown in Exhibit #2.

BK Radio currently holds a construction permit for Channel 239 C2 for Mason, Texas at the proposed reference coordinates for Channel 239 C2 at Junction, Texas. BK therefore believes that there will be no significant gain or loss of population or area by this proposal. In addition, BK Radio has not yet commenced program tests from this location; therefore, there would be no loss of established service to the public.

Conclusion

Therefore, BK requests the following change to Section 73.202(b) of the Commission's rules:

Mason, Texas

<u>Present</u>	<u>Proposed</u>
224 A, 239 C2, 273 C2	224 A, 273 C2
281 C2, 289 C2	281 C2, 289 C2

Junction, Texas

<u>Present</u>	<u>Proposed</u>
228 C2	228 C2, 239 C2

Public Interest

The allotment of Channel 239 C2 to Junction, Texas will provide the community with its third local service.

Preparation

The foregoing statement was prepared on behalf of BK Radio by James S. Bumpous. I, James S. Bumpous am a partner in BK Radio, and all information contained herein is true and correct to the best of my knowledge and belief. My qualifications are a matter of record before the Federal Communications Commission.

BK Radio intends to apply for Channel 239 C2 in Junction, Texas if allocated, and will promptly construct those facilities that are authorized.



____ Date August 1, 2001

James S. Bumpous
Partner, BK Radio

Exhibit E1

73.207 Spacing study for:
Channel 239 C2
Latitude: N. 30-33-53
Latitude: W. 99-27-13

239C2	960823MF	MASON	TX CP	30	33	53	99	27	13	190	0.01	-189.99
238C1	KKMJ-FM	AUSTIN	TX CP	30	19	23	97	47	58	158	161.14	3.13
238C1	KKMJ-FM	AUSTIN	TX LIC	30	19	23	97	47	58	158	161.14	3.13
238C1	KKMJ-FM	AUSTIN	TX LIC	30	19	23	97	47	58	158	161.14	3.13
237A	KNEL-FM	BRADY	TX LIC	31	7	27	99	21	34	55	62.66	7.65
240A		BURNET	TX ADD	30	51	5	98	17	35	106	115.63	9.62
239C3	KBUC	JOURDANTON	TX LIC	28	56	59	98	37	5	177	196.42	19.41
236C1	KRNH	COMFORT	TX LIC	29	50	26	98	49	32	79	100.51	21.51
242A	KBAE	LLANO	TX LIC	30	41	12	98	34	16	55	85.69	30.68
238B	XHRGFM	CIUDAD ACUNA	CI	29	18	17	100	55	42	164	199.44	35.43
238B		CIUDAD ACUNA	CI	29	18	17	100	55	42	164	199.44	35.43
239C2	KCKR	WACO	TX LIC	31	30	51	97	11	43	190	239.92	49.91
293C3	KEXX	LLANO	TX APP	30	46	21	98	47	20	17	67.74	50.73
241C1	KXXM	SAN ANTONIO	TX LIC	29	38	0	98	37	50	79	130.21	51.21
293A	970814MI	LLANO	TX CP	30	46	21	98	47	20	15	67.74	52.73
238C	KCKR	WACO	TX LIC	31	31	16	97	10	26	188	242.09	54.09
240C		VILLA UNION	CI	28	14	0	100	44	30	215	287.06	72.06
239C2	KBST-FM	BIG SPRING	TX LIC	32	13	13	101	26	25	190	263.42	73.42

Exhibit E2

